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The Honorable Thomas Rice

9 ATTORNEY FOR PLAINTIFFS

10 UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 KEN HANSON IMPORTS, INC., a  
13 Washington corporation; KENNETH M.  
14 HANSON, an individual; and KAREN  
15 K. HANSON, an individual,

16 Plaintiffs,

17 v.

18 IRRIGATION COMPONENTS  
19 INTERNATIONAL (V.I), INC., an  
20 Alabama corporation,

21 Defendant.

CASE NO: 2:14-cv-00131

PLAINTIFFS' REPLY AND  
AFFIRMATIVE DEFENSES TO  
DEFENDANT'S  
COUNTERCLAIMS

22 COME NOW the Plaintiffs, Ken Hanson Imports, Inc., Kenneth M.  
23 Hanson, and Karen K. Hanson (collectively referred to as the "Hansons"), by and  
24 through their counsel of record, Lukins & Annis, P.S. and submit their Reply and  
25

PLAINTIFFS' REPLY AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S  
COUNTERCLAIMS: 1

00861357.1 6/2/14

LAW OFFICES OF  
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1 Affirmative Defenses to the counterclaims asserted by Defendant (hereinafter  
2 "ICI").

3 By way of reply to Defendant's counterclaims, Plaintiffs state as follows:

4 **REPLY TO COUNTERCLAIM**

5  
6 Plaintiffs' assert that no reply to Paragraphs 1.1 – 4.14 is necessary as those  
7 answers and responses relate to the Hansons' claims and allegations asserted in  
8 this matter. To the extent any reply or response is necessary to ICI's answers,  
9 responses, admissions, and denials is necessary, the Hansons deny the same and  
10 deny the applicability of the Defenses asserted by ICI, Paragraphs 1-7, inclusive.

11 **JURISDICTION AND VENUE**

12  
13 1. The Hansons admit the truth of their allegations in paragraphs 1.1  
14 through 1.4 of the Amended Complaint and ICI's answers thereto, incorporated  
15 into this Paragraph. The Hansons further admit that this Court has original  
16 jurisdiction over this action pursuant to 28 U.S.C. § 1332 and that the amount in  
17 controversy exceeds \$75,000, exclusive of interest and costs, and there is  
18 complete diversity between ICI and Kenneth Hanson and Karen Hanson. Except  
19 as expressly admitted herein, the Hansons deny any and all remaining allegations  
20 contained in this Paragraph.

21  
22 2. The Hansons admit venue is proper in this Court pursuant to 28  
23 U.S.C. § 1391.

24 ///

25  
PLAINTIFFS' REPLY AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S  
COUNTERCLAIMS: 2

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## FACTUAL BACKGROUND

### The Agreement

3. The Hansons admit that they entered into an Asset Purchase Agreement, dated March 15, 2013 (the "Agreement"), for the purchase and sale of certain assets of Irrigation Components Northwest ("ICNW"). Except as expressly admitted herein, the Hansons deny any and all remaining allegations contained in this Paragraph.

4. The Hansons admit that the Agreement called for the purchase and sale of certain ICNW assets as described in the Agreement to ICI, the purchase price was \$1,354,000, with \$150,000 of the purchase price held back to address necessary adjustments to the estimated balance sheet prepared prior to closing with the Adjusted Balance Sheet to be prepared as of the closing date by ICI. The Hansons further incorporate by reference the allegations asserted in paragraphs 3.9 through 3.11 as further reply to this Paragraph. Except as expressly admitted or incorporated by reference herein, the Hansons deny any and all remaining allegations contained in this Paragraph.

5. The Hansons state that the Agreement speaks for itself and deny the allegations and implications as set forth by ICI in this Paragraph. Except as expressly admitted herein, the Hansons deny any and all remaining allegations or implications contained in this Paragraph.

///

PLAINTIFFS' REPLY AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S  
COUNTERCLAIMS: 3

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1       6.     The Hansons admit only that:

2           a.   Section 3.6 of the Agreement includes, among other language, the  
3               quoted material set forth by ICI in this Paragraph.

4           b.   Section 3.7 of the Agreement includes, among other language, the  
5               quoted material set forth by ICI in this Paragraph.

6  
7       Except as expressly admitted herein, the Hansons deny any and all  
8       remaining allegations or implications contained in this Paragraph.

9       7.     The Hansons admit only Section 1.3 of the Agreement contains,  
10       among other language, the quoted material set forth by ICI in this Paragraph.  
11       Except as expressly admitted herein, the Hansons deny any and all remaining  
12       allegations contained in this Paragraph.

13  
14       8.     The Hansons admit only Section 7.3 of the Agreement contains,  
15       among other language, the quoted material set forth by ICI in this Paragraph.  
16       Except as expressly admitted herein, the Hansons deny any and all remaining  
17       allegations or implications contained in this Paragraph.

18  
19                   **Purchase Price Adjustments and**  
20                   **Counterdefendants' Breaches of the Agreement**

21       9.     This Paragraph presents a legal conclusion for which no responsive  
22       pleading is required. To the extent a responsive pleading is required, the Hansons  
23       deny the same.

24       10.    Denied.  
25

1 11. Denied.

2 a. Denied.

3 b. Denied.

4 c. Denied.

5 d. Denied.

6 e. Denied.

7 f. Denied.

8 g. Denied.

9  
10 12. The Hansons lack sufficient information to admit or deny what ICI  
11 has determined, and therefore, deny the same.

12  
13 13. Denied.

14 **COUNT I – BREACH OF CONTRACT**

15 14. The Hansons incorporate by reference and reallege the allegations  
16 asserted in their Amended Complaint and its reply to paragraphs 1-13 of ICI's  
17 Counterclaim above-stated as if fully set forth herein.

18 15. The Hansons admit they entered into an Agreement, dated March 15,  
19 2013, which covered the purchase and sale of certain assets. Except as expressly  
20 admitted herein, the Hansons deny the remaining allegations.

21 16. This Paragraph presents a legal conclusion for which no responsive  
22 pleading is required. To the extent a responsive pleading is required, the Hansons  
23 deny the same.  
24  
25

1           17. This Paragraph presents a legal conclusion for which no responsive  
2 pleading is required. To the extent a responsive pleading is required, the Hansons  
3 deny the same.

4           18. This Paragraph presents a legal conclusion for which no responsive  
5 pleading is required. To the extent a responsive pleading is required, the Hansons  
6 deny the same.

7           19. This Paragraph presents a legal conclusion for which no responsive  
8 pleading is required. To the extent a responsive pleading is required, the Hansons  
9 deny the same.

10           20. This Paragraph presents a legal conclusion for which no responsive  
11 pleading is required. To the extent a responsive pleading is required, the Hansons  
12 deny the same.

13           21. This Paragraph presents a legal conclusion for which no responsive  
14 pleading is required. To the extent a responsive pleading is required, the Hansons  
15 deny the same.

## 16                                   **COUNT II – DECLARATORY JUDGMENT**

17           22. The Hansons incorporate by reference and reallege the allegations  
18 asserted in their Amended Complaint and its reply to paragraphs 1-21 of ICI's  
19 Counterclaim above-stated as if fully set forth herein.

20           23. The Hansons admit that a justiciable controversy exists between the  
21 Hansons and ICI as set forth in the Hansons' Amended Complaint.

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25  
**PLAINTIFFS' REPLY AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S  
COUNTERCLAIMS: 6**

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1           24. This Paragraph presents a legal conclusion for which no responsive  
2 pleading is required. To the extent a responsive pleading is required, the Hansons  
3 deny the same.

4           25. This Paragraph presents a legal conclusion for which no responsive  
5 pleading is required. To the extent a responsive pleading is required, the Hansons  
6 deny the same.

7  
8           a. The Hansons deny the allegations contained in this Paragraph and  
9 deny that ICI is entitled to the judgment it seeks thereunder.

10           b. The Hansons deny the allegations contained in this Paragraph and  
11 deny that ICI is entitled to the judgment it seeks thereunder.  
12

13  
14                                   **ICI'S PRAYER FOR RELIEF**

15           Answering ICI's Prayer For Relief, (i) through (iii) inclusive, the Hansons  
16 deny that ICI is entitled to any relief and denies the allegations contained therein.  
17

18                                   **THE HANSONS' GENERAL DENIAL OF ALLEGATIONS**

19           The Hansons deny generally and specifically each and every allegation  
20 contained in ICI's Answer, Defenses and Counterclaim to Amended Complaint  
21 that is not specifically admitted herein.  
22

23           ///  
24  
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**PLAINTIFFS' REPLY AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S  
COUNTERCLAIMS: 7**

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1                                   **THE HANSONS' AFFIRMATIVE DEFENSES**  
2                                   **TO ICI'S COUNTERCLAIMS**

3           As further reply and as affirmative defenses to the allegations contained in  
4 ICI's Counterclaims, the Hansons state as follows:

5           1.     Failure to State a Claim. ICI's Counterclaims fail to state a claim  
6 upon which relief can be granted.

7           2.     Accord and Satisfaction. ICI's Counterclaims are barred in whole,  
8 or in part, by the doctrine of accord and satisfaction.

9           3.     Breach of Contract. ICI's Counterclaims assert causes of action  
10 which are barred, in part or in whole, as the consequence of ICI's own breaches  
11 of contract.  
12

13           4.     Failure to Mitigate. ICI's damages, if any, are barred by its failure to  
14 mitigate damages and protect itself from avoidable consequences.  
15

16           5.     Waiver and Estoppel. ICI, by its conduct and/or acts, words, or  
17 silence, has waived, released or is otherwise estopped from asserting the claims  
18 contained in its Counterclaims.

19           6.     Set-Off. ICI's claims are barred, in part or in whole, by the doctrine  
20 of set-off.  
21

22           7.     Unclean Hands / Laches. ICI is barred from recovery based upon the  
23 doctrines of unclean hands and laches.  
24  
25



1       8.     Right to Amend. As investigation and discovery into this matter  
2 have just commenced, the Hansons reserve the right to amend and supplement  
3 their Reply, including the assertion of affirmative defenses, amendment of claims,  
4 and filing any appropriate motions under FRCP 12 and FRCP 56, or both.  
5

6                                   **PRAYER FOR RELIEF**

7       WHEREORE, having fully replied to ICI's Counterclaims, the Hansons  
8 pray for the following relief.

- 9       1. Dismissal of ICI's counterclaims with prejudice and without costs;  
10       2. For an award of attorney's fees and costs in defending against ICI's  
11         counterclaims;  
12       3. For the affirmative relief stated and set forth in the Hansons' Amended  
13         Complaint; and  
14       4. For such other and further relief as the Court deems just and equitable.  
15

16       DATED this 2<sup>nd</sup> day of June, 2014.

17                                   LUKINS & ANNIS, P.S.  
18

19  
20                                   By /s/ Michael D. Franklin  
21                                   MICHAEL D. FRANKLIN  
22                                   WSBA #34213

23                                   Attorneys for Plaintiffs  
24  
25

PLAINTIFFS' REPLY AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S  
COUNTERCLAIMS: 9

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1 **CERTIFICATE OF SERVICE**

2  
3 I hereby certify that on the 2nd day of June, 2014, I electronically filed the  
4 foregoing Plaintiff's Reply and Affirmative Defenses to Defendant's  
5 Counterclaims with the Clerk of Court using the CM/ECF System which will  
6 send notification of such filing to the following:

7 Attorney for Defendant  
8 Christopher Kerley  
9 Evans, Craven & Lackie, P.S.  
10 818 W. Riverside Ave., Ste. 250  
11 Spokane, WA 99201  
12 ckerley@ecl-law.com

13 And I hereby certify that I have mailed by United States Postal Service the  
14 document to the following non-CM/ECF participants:

15 Of Counsel:  
16 W. Allen Woolley and Erin L. Brechtelsbauer  
17 Edwards Wildman Palmer LLP  
18 225 West Wacker Drive, Suite 3000  
19 Chicago, IL 60606

20 DATED this 2<sup>nd</sup> day of June, 2014.

21 LUKINS & ANNIS, P.S.

22 By /s/ Michael D. Franklin  
23 MICHAEL D. FRANKLIN  
24 WSBA #34213

25 Attorneys for Plaintiffs

PLAINTIFFS' REPLY AND AFFIRMATIVE  
DEFENSES TO DEFENDANT'S  
COUNTERCLAIMS: 10

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